

List of Attachments for Item No. 2
CFD 2008-1 / Annexation No. 9 – The Edge

Attachments:

- 2A City Council Resolution – Levy of Taxes
- 2B City Council Resolution – Election Results
- 2C Boundary Map for Annexation No. 9
- 2D Notice of Public Hearing
- 2E The Edge – Land Owner's Consent and Waiver

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES), MAKING CERTAIN DETERMINATIONS AND AUTHORIZING SUBMITTAL OF THE LEVY OF SPECIAL TAXES TO THE QUALIFIED ELECTORS OF CERTAIN TERRITORY (THE EDGE) PROPOSED TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES)

WHEREAS, the City Council of the City of Milpitas, California, ("City Council"), formed a community facilities district pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982", being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the "Act"). The community facilities district has been designated as City of Milpitas Community Facilities District No. 2008-1 (Public Services) (the "District"); and

WHEREAS, notice of a public hearing relating to the annexation of such territory to the District, the extent of the territory to be annexed, the furnishing of certain public services and all other related matters has been given; and

WHEREAS, the territory proposed to be annexed is known and designated as Community Facilities District No. 2008-1, Annexation No. 9 (the "Territory"); and

WHEREAS, it has now been determined that written protests have not been received by 50% or more of the registered voters residing either within the Territory and/or property owners representing more than one-half (1/2) or more of the area of land within the Territory; and

WHEREAS, inasmuch as there have been less than twelve (12) persons registered to vote within the Territory for each of the 90 preceding days, this legislative body desires to submit the levy of the required special tax to the landowners of the Territory, such landowners being the qualified electors as authorized by law.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. Recitals. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Determinations. It is determined by this City Council that:
 - (a) all proceedings prior hereto were valid and taken in conformity with the requirements of law, and specifically the provisions of the Act, and this finding is made pursuant to the provisions and authorization of Section 53325.1 of the Government Code of the State of California;
 - (b) the annexation of the Territory to the District as proposed conforms with the City of Milpitas Statement of Goals and Policies Regarding the Establishment of Community Facilities Districts;
 - (c) the Registrar of Voters of certified that as of August 10, 2016 there were no registered voters residing within the Territory and, therefore, less than twelve (12) registered voters have resided within the Territory for each of the ninety (90) days preceding the close of the public hearing and, consequently, the qualified electors shall be the landowners of the Territory and each landowner who is the owner of record as of the close of the public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that she or he owns within the Territory;
 - (d) the time limit specified by the Act for conducting an election to submit the levy of the special taxes to the qualified electors of the Territory and the requirements for impartial analysis and ballot arguments have been waived with the unanimous consent of the qualified electors of the Territory;

- (e) the City Clerk, acting as the election official, has consented to conducting any required election on a date which is less than 125 days following the adoption of any resolution annexing the Territory to the District; and
- (f) the public services described in Section 4 herein proposed to be financed from the proceeds of special taxes to be levied within the Territory are necessary to meet increased demands placed upon the City as a result of development and/or rehabilitation occurring in the Territory.

3. Boundaries of the Territory. The boundaries and parcels of land the Territory and in which the public services are to be provided and on which special taxes will be levied in order to pay the costs and expenses for such public services are generally described as follows:

All that Territory proposed to be annexed to the District, as such property is shown on a map as previously approved by this legislative body, such map entitled “Annexation Map No. 9 and Update of Annexation Map No. 8 of City of Milpitas Community Facilities District No. 2008-1 (Public Services), County of Santa Clara, State Of California” (the “Annexation Map”), a copy of which is on file in the Office of the City Clerk and shall remain open for public inspection. The Annexation Map has been filed in the Office of the Santa Clara County Recorder as Document No.

4. Description of Services. The services that are authorized to be financed by the District from the proceeds of special taxes levied within the District are certain services which are in addition to those services that were provided in or required for the District prior to the formation of the District and did not replace services already available in the District at the time of formation of the District. A general description of the services authorized to be financed by the District is as follows:

- (a) Police protection services, including, but not limited to criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.
- (b) Fire protection and suppression services, and ambulance and paramedic services.
- (c) Maintenance and lighting of parks, parkways, streets, roads, street landscaping, and open space.
- (d) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems.
- (e) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment.

The District shall finance all direct, administrative and incidental annual costs and expenses necessary to provide such monitoring, maintenance, operation and management of such public property.

The same types of services which are authorized to be financed by the District from the proceeds of special taxes levied within the District are the types of services to be financed from the proceeds of special taxes levied within the Territory. If and to the extent possible such services shall be provided in common within the District and the Territory.

5. Special Tax. Except where funds are otherwise available, a special tax sufficient to pay for such services and related incidental expenses authorized by the Act, secured by recordation of a continuing lien against all non-exempt real property in the Territory, will be levied annually within the boundaries of such Territory. For further particulars as to the rate and method of apportionment of the proposed special tax, reference is made to the attached and incorporated Exhibit “A” (the “Rate and Method”), which sets forth in sufficient detail the method of apportionment to allow each landowner or resident within the proposed Territory to clearly estimate the maximum amount that such person will have to pay.

The special tax proposed to be levied within the Territory shall be equal to the special tax levied to pay for the

same services in the District, except that a higher or lower special tax may be levied within the Territory to the extent that the actual cost of providing the services in the Territory is higher or lower than the cost of providing those services in the District. Notwithstanding the foregoing, the special tax may not be levied at a rate which is higher than the maximum special tax authorized to be levied pursuant to the Rate and Method.

The special taxes herein authorized, to the extent possible, shall be collected in the same manner as ad valorem property taxes and shall be subject to the same penalties, procedure, sale and lien priority in any case of delinquency as applicable for ad valorem taxes. Any special taxes that may not be collected on the County tax roll shall be collected through a direct billing procedure by the Treasurer.

The maximum special tax rate in the District shall not be increased as a result of the annexation of the Territory to the District.

6. Election. The proposition related to the levy of the special tax shall be submitted to the qualified electors of the Territory, such electors being the landowners, with each landowner having one (1) vote for each acre or portion thereof of land which he or she owns within such annexed territory. The special election shall be held on September 6, 2016 immediately following the adoption of this Resolution, and such election shall be a special election to be conducted by the City Clerk (hereinafter "Election Official"). If the proposition for the levy of the special tax receives the approval of more than two-thirds (2/3) of the votes cast on the proposition, the special tax may be levied as provided for in this Resolution.

7. Ballot. The ballot proposal to be submitted to the qualified electors at the election shall generally be as follows:

PROPOSITION A

CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2008-1, ANNEXATION NO. 9 AUTHORIZATION FOR SPECIAL TAX LEVY

Shall City of Milpitas Community Facilities District No. 2008-1 (Public Services) be authorized to levy special taxes within the territory identified as Annexation No. 9 to such District pursuant to the rate and method of apportionment of special taxes (the "Rate and Method") attached to this ballot to finance the authorized services and administrative expenses, all as provided for in the Rate and Method?

8. Vote. The appropriate mark placed in box adjacent to the word "YES" shall be counted in favor of the adoption of the proposition, and the appropriate mark placed in the box adjacent to the word "NO" in the manner as authorized, shall be counted against the adoption of such proposition.

9. Election Procedure. This City Council hereby authorizes the Election Official to take any and all steps necessary for the holding of such election and ratifies any such steps previously taken by such Election Official which were necessary for the holding of such election. Such Election Official shall perform and render all services and proceedings incidental to and connected with the conduct of such election, and such services shall include, but not be limited to the following:

- (a) Prepare and furnish to the election officers' necessary election supplies for the conduct of the election.
- (b) Cause to be printed the requisite number of official ballots, tally sheets and other necessary forms.
- (c) Furnish and address official ballots for the qualified electors of the Territory.
- (d) Cause the official ballots to be mailed and/or delivered, as required by law.
- (e) Receive the returns of the election.

- (f) Sort and assemble the election material and supplies in preparation for the canvassing of the returns.
- (g) Canvass the returns of the election.
- (h) Furnish a tabulation of the number of votes given in the election.
- (i) Make all arrangements and take the necessary steps to pay all costs of the election incurred as a result of services performed for the District and pay costs and expenses of all election officials.
- (j) Conduct and handle all other matters relating to the proceedings and conduct of the election in the manner and form as required by law.

PASSED AND ADOPTED this _____ day of _____ 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

**CITY OF MILPITAS
ANNEXATION NO. 9 TO COMMUNITY FACILITIES DISTRICT NO. 2008-1
(PUBLIC SERVICES)**

**EXHIBIT "A"
RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**

Recording Requested By and
When Recorded Mail to:

CITY OF MILPITAS
Attention: City Clerk
455 East Calaveras Blvd
Milpitas, California 95035

DOCUMENT: 20102888



Pages: 13

Fees . . . * No Fees
Taxes . . .
Copies . . .
AMT PAID

REGINA ALCOMENDRAS
SANTA CLARA COUNTY RECORDER
Recorded at the request of
City

RDE # 003
1/15/2009
10:10 AM

NOTICE OF SPECIAL TAX LIEN

**CITY OF MILPITAS
COMMUNITY FACILITIES DISTRICT NO. 2008-1
(PUBLIC SERVICES)
FORMATION**

Pursuant to the requirements of Section 3114.5 of the Streets and Highways Code and Section 53328.3 of the Government Code, the undersigned City Clerk of the City of Milpitas, State of California, hereby gives notice that a lien to secure payment of a special tax is hereby imposed by the City Council of the City of Milpitas, State of California. The special tax secured by this lien is authorized to be levied for the purpose of financing the services described on Exhibit A attached hereto and incorporated herein and to pay any other related incidental costs or expenses authorized by law.

The special tax is authorized to be levied within the City of Milpitas, Community Facilities District 2008-1 (Public Services), which has now been officially formed. The lien of the special tax is a continuing lien that shall secure each annual levy of the special tax and that shall continue in force and effect until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the Government Code.

The rate, method of apportionment, and manner of collection of the authorized special tax is as set forth in Exhibit B attached hereto and incorporated herein. No provision has been made under which the obligation to pay the special tax may be prepaid and permanently satisfied and the lien of the special tax canceled.

Notice is further given that, upon the recording of this notice in the office of the county recorder, the obligation to pay the special tax levy shall become a lien upon all nonexempt real property within the Community Facilities District No. 2008-1 in accordance with Section 3115.5 of the Streets and Highways Code.

The names of the owners and the assessor's tax parcel numbers of the real property included within the Community Facilities District No. 2008-1 and not exempt from the special tax are shown on Exhibit C.

Reference is made to the boundary map of the Community Facilities District No. 2008-1 recorded on October 30, 2008, in Book 44 of maps of Assessment and Community Facilities

Districts at page 30 in the office of the County Recorder for the County of Santa Clara, State of California, which map is now the final boundary map of the Community Facilities District No. 2008-1.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact the Office of the Finance Director, City of Milpitas, at (408) 586-3000.

Dated: January 14, 2009

City of Milpitas

By: Mary A. Lavelle
City Clerk

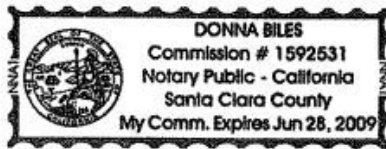
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Santa Clara

On 1-14-09 before me, Donna Biles, Notary Public

personally appeared Mary A. Gruelle



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Donna Biles

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Notice of Special Tax Lien

Document Date: 1-14-09 Number of Pages: 14

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Mary A. Gruelle

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

Signer Is Representing: Self

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

Signer Is Representing: _____

EXHIBIT A

DESCRIPTION OF SERVICES

The community facilities district is established to finance any one or more of the following types of services within the District:

(a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.

(b) Fire protection and suppression services, and ambulance and paramedic services.

(c) Maintenance and lighting of parks, parkways, streets, roads, street landscaping, and open space.

(d) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems.

(e) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment.

EXHIBIT B

**City of Milpitas
Community Facilities District No.2008-1
(Public Services)
Santa Clara County, California**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

EXHIBIT B

City of Milpitas
Community Facilities District No. 2008-1
(Public Services)
Santa Clara County, California

RATE, METHOD OF APPORTIONMENT, AND MANNER OF COLLECTION OF SPECIAL TAX

1. BASIS OF SPECIAL TAX LEVY

A Special Tax authorized under the Mello-Roos Community Facilities Act of 1982 (Act) applicable to the land in the Community Facilities District No. 2008-1 (Public Services) (CFD) of the City of Milpitas (City) shall be levied and collected according to the tax liability determined by the City through the application of the appropriate amount or rate, as described below.

2. DEFINITIONS

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, Sections 53311 and following of the California Government Code.

"Administrative Expenses" means the actual or estimated costs incurred by the City to form the CFD and to determine, levy, and collect the Special Taxes, including compensation of City employees for administrative work performed in relation to the CFD, the fees of consultants and legal counsel, the costs of collecting installments of the Special Taxes on the general tax rolls, preparation of required reports, and any other costs required to administer the CFD as determined by the City.

"Administrator" means the Finance Director of the City, or his or her designee.

"Affordable Housing" means a Dwelling Unit on a Developed Parcel that is subject to deed restrictions, resale restrictions, or regulatory agreements recorded on the property that provide housing for persons that meet Low-, Very Low-, or Extremely Low-Income levels pursuant to the California Health and Safety Code Sections 5079.5, 50105, or 50106. The Dwelling Unit shall no longer be considered Affordable Housing following termination of the agreement containing covenants or similar instruments.

"Annexation Parcel" means any Parcel that is annexed to the CFD after it is formed.

“Annual Costs” means for each Fiscal Year, the total of (1) Authorized Services, (2) Administrative Expenses, and (3) any amounts needed to cure actual or estimated delinquencies in Special Taxes for the current or previous Fiscal Year.

“Authorized Services” mean those services, as listed in the resolution forming the CFD.

“Base Year” means the Fiscal Year beginning July 1, 2009 and ending June 30, 2010.

“Certificate of Occupancy” means a permit issued by the City authorizing the occupancy of a Dwelling Unit.

“CFD” means the Community Facilities District No. 2008-1 (Public Services) of the City of Milpitas, Santa Clara County, California.

“City” means the City of Milpitas in Santa Clara County, California.

“Council” means the City Council of the City of Milpitas acting for the CFD under the Act.

“County” means the County of Santa Clara, California.

“County Assessor’s Parcel” means a lot or Parcel with an assigned Assessor’s Parcel Number in the maps used by the County Assessor in the preparation of the tax roll.

“County Median Income” means the current median income for the County as determined by the U.S. Department of Housing and Urban Development, or successor agency as published annually by the State Department of Housing and Community Development pursuant to the Health and Safety Code Section 50093 et. seq.

“Developed Parcel” means a Parcel that has Certificate of Occupancy for residential land uses issued after January 1, 2009.

“Dwelling Unit(s)” means the number of taxable developed residential unit(s) assigned to a Parcel, or a portion thereof, by the Administrator.

“Extremely Low-Income Affordable” means a Dwelling Unit located on a Developed Parcel that is Affordable Housing for households with incomes at or below 30 percent of the County Median Income.

“Fiscal Year” means the period starting July 1 and ending the following June 30.

“Low-Income Affordable” means a Dwelling Unit located on a Developed Parcel for Affordable Housing for households with incomes at or below 80 percent of the County Median Income.

“Market Rate” means a Dwelling Unit located on a Developed Parcel that is not Affordable Housing.

“Maximum Annual Special Tax” means the greatest amount of Special Tax that can be levied against a Developed Parcel calculated by summing the Maximum Annual Special Tax Rate for each Dwelling Unit and Tax Category assigned to a Developed Parcel.

"Maximum Annual Special Tax Rate per Unit" means the amount shown in **Attachment 1** for a Fiscal Year that is assigned to a Dwelling Unit by Tax Category.

"Parcel" means any County Assessor's Parcel in the CFD based on the equalized tax rolls of the County as of January 1 of each Fiscal Year.

"Parcel Number" means the Assessor's Parcel Number for any Parcel based on the equalized tax rolls of the County as of January 1 of each Fiscal Year.

"Public Parcel" means any Parcel, in its entirety, that is or is intended to be publicly owned that is normally exempt from the levy of general ad valorem property taxes under California law, including public streets, schools, parks, public drainageways, public landscaping, wetlands, greenbelts, and public open space. These parcels are exempt from the levy of Special Taxes. Any such Parcel will be a Tax-Exempt Parcel.

"Second-Family Unit" means an attached or detached additional residential dwelling unit on a single-family residential Developed Parcel. The Second-Family Unit is not considered a Dwelling Unit in terms of assigning the Maximum Annual Special Tax.

"Special Tax(es)" mean(s) any tax levy under the Act in the CFD.

"Tax Category" means the four categories of housing Dwelling Units shown in **Attachment 1**.

"Tax Collection Schedule" means the document prepared by the Administrator for the County Auditor-Controller to use in levying and collecting the Special Taxes each Fiscal Year.

"Tax Escalation Factor" means an annual percentage increase in the Maximum Annual Special Tax Rate per Unit based on the Consumer Price Index (CPI) (as of February, San Francisco, All Urban Consumers [CPI-U] Index), the CPI (prior calendar year annual average, San Francisco, All Urban Wage Earners and Clerical Workers), or 2 percent, whichever is greater. The Tax Escalation Factor is applied in each Fiscal Year following the Base Year.

"Taxable Parcel" means any Parcel that is not a Tax-Exempt Parcel.

"Tax-Exempt Parcel" means a Parcel not subject to the Special Tax. Tax-Exempt Parcels are Public Parcels (subject to the limitations set forth in **Section 4**, below), Undeveloped Parcels, and nonresidential use parcels, such as commercial, office, retail, industrial, etc.

"Undeveloped Parcel" means a Parcel that is not a Developed Parcel.

"Very Low-Income Affordable" means a Dwelling Unit located on a Developed Parcel that is Affordable Housing for households with incomes at or below 50 percent of the County Median Income.

3. DURATION OF THE SPECIAL TAX

Parcels in the CFD will remain subject to the Special Tax in perpetuity.

If the Special Tax ceases to be levied, the City will direct the County Recorder to record a Notice of Cessation of Special Tax. Such notice will state that the obligation to pay the Special Tax has ceased and that the lien imposed by the Notice of Special Tax Lien is extinguished. The Notice of Cessation of Special Tax, in addition, will identify the book and page of the Book of Maps of Assessment and Community Facilities Districts where the map of the boundaries of the CFD is recorded.

4. ASSIGNMENT OF MAXIMUM ANNUAL SPECIAL TAX

- A. Classification of Parcels. By June 30 of each Fiscal Year, using the Definitions in **Section 2**, above, the parcel records of the Assessor's Secured Tax Roll as of January 1, and other City development approval records, the Administrator shall cause these:

1. Each Parcel to be classified as a Developed Parcel or Tax-Exempt Parcel.
2. Each Developed Parcel to be assigned a number of Dwelling Units.
3. Each Dwelling Unit to be further classified as Market Rate, Low-Income Affordable, Very Low-Income Affordable, or Extremely Low-Income Affordable.

- B. Assignment of Maximum Annual Special Tax. **Attachment 1** shows the Base Year Maximum Annual Special Tax Rates per Unit. Each Fiscal Year following the Base Year, the Maximum Annual Special Tax Rate per Unit may be increased in accordance with the Tax Escalation Factor.

The Maximum Annual Special Tax is then assigned to Taxable Parcels using the steps below:

1. **Developed Parcels**. Dwelling Units are assigned by the Administrator by Tax Category (as shown in **Attachment 1**) to Developed Parcels. The Maximum Annual Special Tax for each Developed Parcel is the sum of the Maximum Annual Special Tax Rates per Unit (as increased by the Tax Escalation Factor each Fiscal Year after the Base Year) for each Dwelling Unit (and Tax Category assigned thereto).
 2. **Undeveloped Parcels**. Undeveloped Parcels are Tax-Exempt Parcels until developed as one of the residential uses discussed above.
- C. Conversion of a Tax-Exempt Parcel to a Taxable Parcel. If a Tax-Exempt Parcel is not needed for public use and is converted to a taxable use or transferred to a private owner, it shall become subject to the Special Tax. The Maximum Annual Special Tax for such a Parcel will be assigned according to the **Section 4.A** and **Section 4.B** above. Conversely, if a privately owned parcel is converted to a public use, it shall become tax-exempt.

5. CALCULATING ANNUAL SPECIAL TAXES

The Administrator will compute the Annual Costs and determine the Maximum Annual Special Tax for each Taxable Parcel based on the assignment of the Special Tax in **Section 4**. The Administrator will then determine the tax levy for each Taxable Parcel using the following process:

- A. Compute the Annual Costs using the definition of Annual Costs in **Section 2**.
- B. Calculate the Special Tax levy for each Developed Parcel by the following steps:
 - Step 1: Compute 100 percent of the Maximum Annual Special Tax Revenue for all Developed Parcels.
 - Step 2: Compare the Annual Costs with the Maximum Annual Special Tax revenue calculated in the previous step.
 - Step 3: If the Annual Costs are lower than the Maximum Annual Special Tax Revenue, decrease proportionately the Special Tax levy for each Developed Parcel until the revenue from the Special Tax levy equals the Annual Costs.
- C. Levy on each Taxable Parcel the amount calculated above.
- D. Prepare the Tax Collection Schedule and, unless an alternative method of collection has been selected pursuant to **Section 9**, send it to the County Auditor requesting that it be placed on the general, secured property tax roll for the Fiscal Year. The Tax Collection Schedule will not be sent later than the date required by the Auditor for such inclusion.

The Administrator will make every effort to correctly calculate the Special Tax for each Parcel. It will be the burden of the taxpayer to correct any errors in the determination of the Parcels subject to the tax and their Special Tax assignments.

6. RECORDS MAINTAINED FOR THE CFD

As development and subdivision occurs in the CFD, the Administrator will maintain a file containing records of the following information for each Parcel:

- The current County Assessor's Number.
- Number of Dwelling Units assigned by the Administrator to Developed Parcels.
- The Tax Category for each Dwelling Unit assigned to a Developed Parcel.

The file containing the information listed above will be available for public inspection.

7. INTERPRETATION, APPLICATION AND APPEAL OF SPECIAL TAX FORMULA AND PROCEDURES

Any taxpayer who feels that the amount of the Special Tax assigned to a Parcel is in error may file a notice with the Administrator appealing the levy of the Special Tax. The Administrator will then promptly review the appeal, and if necessary, meet with the applicant. If the Administrator verifies that the tax should be modified or changed, the Special Tax levy will be corrected and, if applicable in any case, a refund will be granted.

Interpretations may be made by Resolution of the Council for purposes of clarifying any vagueness or ambiguity as it relates to the Special Tax rate, the method of apportionment, the classification of properties, or any definition applicable to the CFD.

Without Council approval, the Administrator may make minor, non-substantive administrative and technical changes to the provisions of this Exhibit that do not materially affect the rate, method of apportionment, and manner of collection of the Special tax for purposes of the administrative efficiency or convenience or to comply with new applicable federal, state or local law.

8. PREPAYMENT OF THE SPECIAL TAX OBLIGATION

The Maximum Annual Special Tax for a Taxable Parcel may not be prepaid. The Special Tax is collected to fund Authorized Services in perpetuity, or until the Council determines that the Special Tax should no longer be collected.

9. MANNER OF COLLECTION

The Special Tax will be collected in the same manner and at the same time as ad valorem property taxes, provided, however, that the Administrator or its designee may directly bill the Special Tax and may collect the Special Tax at a different time, such as on a monthly or other periodic basis, or in a different manner, if necessary, to meet the City's financial obligations.

**Attachment 1
City of Milpitas
CFD No. 2008-1 (Public Services)
Maximum Annual Special Tax Rates Per Unit Base Year 2009-2010**

Dwelling Unit Tax Category	Maximum Annual Special Tax Rate Per Unit
	[1]
Market Rate	\$510
Low-Income Residential [2]	\$408
Very Low-income Residential [3]	\$255
Extremely Low-Income Residential	\$0

[1] May be increased by the Tax Escalation Factor in each Fiscal Year after the Base Year 2009-2010.

[2] Initially set at 80% of the Market-Rate Maximum Annual Special Tax Rate per Unit. When such Parcel is no longer subject to Affordable Housing status, it will be assigned to the Market Rate Tax Category.

[3] Initially set at 50% of the Market-Rate Maximum Annual Special Tax Rate per Unit. When such Parcel is no longer subject to Affordable Housing status, it will be assigned to the Market Rate Tax Category.

[4] Initially set at 0% of the Market-Rate Maximum Annual Special Tax Rate per Unit. When such Parcel is no longer subject to Affordable Housing status, it will be assigned to the Market Rate Tax Category.

EXHIBIT C

**Assessor's Parcel Numbers and Owners
Of Land Included in
City of Milpitas
Community Facilities District No. 2008-1 (Public Services)**

APN

LANDOWNER

086-32-033, 034, 035, 036

Milpitas Station LLC

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES), DECLARING THE RESULTS OF A SPECIAL ELECTION IN THAT TERRITORY DESIGNATED AS COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES), ANNEXATION NO. 9 (THE EDGE), AND ADDING SUCH TERRITORY TO COMMUNITY FACILITIES DISTRICT NO. 2008-1

WHEREAS, the City Council of the City of Milpitas, California (the “City Council”), has previously undertaken proceedings to annex that territory identified as Annexation No. 9 to an existing community facilities district pursuant to the terms and provisions of the “Mello-Roos Community Facilities Act of 1982,” being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the “Act”). This community facilities district is referred to as Community Facilities District No. 2008-1 (Public Services) (the “District”) and such territory proposed to be annexed is referred to as Annexation No. 9 (the “Territory”); and

WHEREAS, the City Council did call for and order to be held an election to submit to the qualified electors of the Territory a proposition relating to the levy of special taxes within the Territory; and

WHEREAS, at this time said election has been held and the measure voted upon and such measure did receive the favorable 2/3's vote of the qualified electors, and this City Council desires to declare the results of the election in accordance with the provisions of the Elections Code of the State of California and to order that the Territory be added to the District.

NOW, THEREFORE, the City Council of the City Of Milpitas, acting as the Legislative Body of Community Facilities District No. 2008-1 (Public Services), does hereby resolve, declare, find, determine and order as follows:

1. The above recitals are all true and correct.
2. The City Council hereby receives and approves the CERTIFICATE OF ELECTION OFFICIAL AND STATEMENT OF VOTES CAST, as submitted by the City Clerk, acting in her capacity as the Election Official, said Statement setting forth the number of votes cast in the election, the measure voted upon, and the number of votes given for and/or against the measure voted upon. A copy of said Certificate and Statement is attached hereto, marked **Exhibit “A,”** referenced and so incorporated.
3. The City Clerk is hereby directed, pursuant to the provisions of the Elections Code of the State of California, to enter in the minutes the results of the election as set forth in said STATEMENT OF VOTES CAST.
4. The City Council does hereby determine and declare that the Territory is now added to and becomes a part of the District. The City Council hereby further determines that the City Council is now authorized to levy the special taxes within the Territory as approved and authorized by the qualified electors of the Territory.

PASSED AND ADOPTED this _____ day of _____, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

EXHIBIT "A"

**CERTIFICATE OF ELECTION OFFICIAL
AND STATEMENT OF VOTES CAST**

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA) ss.
CITY OF MILPITAS)

The undersigned, ELECTION OFFICIAL OF THE CITY OF MILPITAS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DOES HEREBY CERTIFY that pursuant to the provisions of Section 53326 of the Government Code and Division 12, commencing with Section 17000 of the Elections Code of the State of California, I did canvass the returns of the votes cast at the

CITY OF MILPITAS
COMMUNITY FACILITIES DISTRICT NO. 2008-1
(PUBLIC SERVICES)
ANNEXATION AREA NO. 9
SPECIAL ELECTION

in said City, held September 6, 2016.

I FURTHER CERTIFY that this Statement of Votes Cast shows the whole number of votes cast in the Territory of the District in said City, and the whole number of votes cast for the Measure in the Territory of the District in said City, and the totals as shown for the Measure are full, true and correct.

I. TOTAL NUMBER OF VOTES CAST: _____

II. VOTES CAST ON PROPOSITION A: YES _____

NO _____

WITNESS my hand and Official Seal this _____ day of _____, 2016.

CITY CLERK
ELECTION OFFICIAL
CITY OF MILPITAS
STATE OF CALIFORNIA

Filed in the office of the City Clerk of the City of Milpitas this ____ day of _____, 2016.

City Clerk, City of Milpitas

I hereby certify Annexation Map No. 9 as shown within the boundaries of City of Milpitas Community Facilities District No. 2008-1 (Public Services) as originally recorded of maps of assessment and community Book 44 Page 30 Facilities District, O.R., County of Santa Clara, State of California, was approved by the City Council of the City of Milpitas at a regular meeting thereof, held on the ____ day of _____, 2016, by its Resolution No. _____.

City Clerk, City of Milpitas

Filed this ____ day of _____, 2016, at the hour of ____ o'clock ____m., in Book ____ of Maps of Assessment and Community Facilities Districts at Page ____ in the office of the County Recorder in the County of Santa Clara, State of California.

County Recorder, Regina Alcomendras
County of Santa Clara

The boundary of Community Facilities District No. 2008-1 is co-terminous with the boundary of the City of Milpitas in _____, 2016.

Reference is hereby made to the Assessor maps of the County of Santa Clara for an exact description of the lines and dimensions of each lot and parcel.

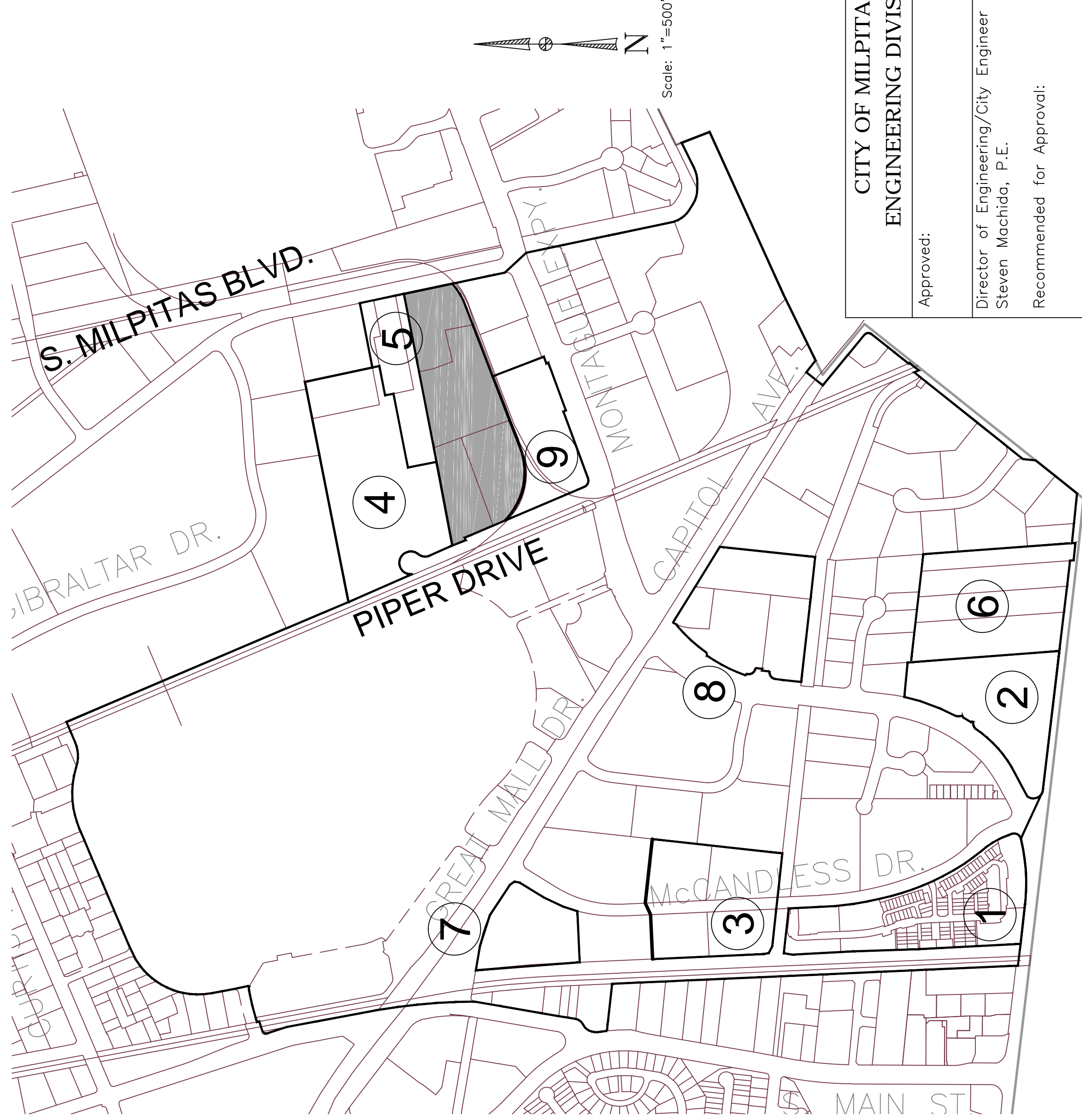
The territory included in the Community Facilities District shall include only Santa Clara County Assessor's for the following Annexation Maps:

- Initial formation CFD 2008-1 : 08632033, 08632034, 08632035, 0832036
Map No. 1: 08641020, 08641021, 08641022
Map No. 2: 08636043
Map No. 3: 08633094, 08633095, 08633098, 08633099
Map No. 4: 08632044
Map No. 5: 08632039, 08632045, 08632046
Map No. 6: 08636003, 08636004, 08636005, 08636006
Map No. 7: 08633092
Map No. 8: 08637004, 08637019, 08637020, 08637021
Map No. 9: 08632026, 08632029

and all publicly owned areas in the City of Milpitas landscaped or capable of being landscaped, such as parks, parkways, street medians, interchange areas, light rail areas, open space and all similar areas. All other areas depicted on this map indicate territory that may be annexed to the Community Facilities District in the future.

EXHIBIT 2

ANNEXATION MAP NO. 9 AND UPDATE OF ANNEXATION MAP NO. 8 OF CITY OF MILPITAS
COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES), COUNTY OF SANTA CLARA
STATE OF CALIFORNIA AS RECORDED IN BOOK 44 PAGE 30 OF MAPS OF ASSESSMENT AND
COMMUNITY FACILITIES DISTRICTS, O.R., SANTA CLARA COUNTY



CITY OF MILPITAS ENGINEERING DIVISION		
Approved:		
Director of Engineering/City Engineer Steven Machida, P.E.		Date
Recommended for Approval:		
Judy Chu, P.E. Assistant City Engineer		Date
Drawn By: C.Z.	File No. CFD 2008-1	Sheet 1 of 1

**CITY OF MILPITAS
NOTICE OF PUBLIC HEARING ON
RESOLUTION DECLARING INTENTION TO ANNEX REAL PROPERTIES WITHIN TRACT
NO. 10305 (THE EDGE) INTO THE COMMUNITY FACILITIES DISTRICT NO. 2008-1
ANNEXATION NO. 9, AND
TO LEVY AND COLLECT SPECIAL TAX FOR PUBLIC SERVICES**

NOTICE IS HEREBY GIVEN that the City Council of the City of Milpitas on August 2, 2016, adopted Resolution No. 8574, in which it declared its intention to annex real properties within tract no. 10305 into the community facilities district no. 2008-1 as CFD 2008-1 Annexation No. 9, to levy and collect special tax for public services within CFD 2008-1 Annexation No. 9, and fixing the time and place of a public hearing on said resolution of intention for Tuesday, September 6, 2016, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, at the City Hall Council Chambers, 455 East Calaveras Blvd., Milpitas, California, all pursuant to the provisions of the California Government Code Sections 53339 to 5339.9.

Resolution No. 8574, adopted on August 2, 2016, provides in summary as follows:

1. The City council declared its intention to conduct proceedings for the annexation of territory to City of Milpitas Community Facilities District No. 2008-1 ("CFD 2008") of the territory described in Exhibit 2 to Resolution No. 8574. The City Council determined that public convenience and necessity require that such territory be annexed to CFD 2008.
2. The types of public services are the same as the ones for CFD 2008 and the rate, method of apportionment and manner of collection of special tax are the same as the ones for CFD 2008. The types of public services and descriptions of rate, method of apportionment and manner of collection of special tax are set forth in Exhibit 1 to Resolution No 8574.
3. There is no alteration in the special tax rate to be levied in CFD 2008 as a result of the proposed Annexation No. 9. The maximum tax rate in CFD 2008 will not be increased as a result of the proposed Annexation No. 9. The resolution describes the boundaries of the proposed annexation. For further details, the resolution is available in the office of the City Clerk at City Hall, 455 East Calaveras Blvd., Milpitas, California.
4. A public hearing on the annexation of territory to CFD 2008 shall be held at 7:00 p.m. on September 6, 2016, at the City Hall Council Chambers at 455 East Calaveras Blvd., Milpitas, California.
5. The City Clerk shall publish a notice of the public hearing once not later than seven days prior to the date fixed for the hearing, in *The Milpitas Post*, a newspaper of general circulation published in the City of Milpitas.

Resolution No. 8574 contains other provisions which are not summarized above. Copies of Resolution No. 8574 may be reviewed or obtained in the office of the City Clerk at City Hall, 455 East Calaveras Blvd., Milpitas, California.

NOTICE IS HEREBY FURTHER GIVEN that the City Council has fixed Tuesday, September 6, 2016, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, at City Hall Council Chambers, 455 East Calaveras Blvd., Milpitas, California, as the time and place when and where the City Council will hold a public hearing to consider the proposed CFD 2008-1 Annexation No. 9, all pursuant to California Government Code Sections 53339.4 and 53322. At the hearing, the testimony of all interested persons, including all persons owning property, the registered voters and/or taxpayers within the boundary of the proposed CFD 2008-1 Annexation No. 9, for or against the annexation and the levy of the special tax will be heard.

At such public hearing, protests against the proposed annexation of the territory or any other

proposals contained in Resolution No. 8574 may be made orally by any interested person. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularities or defects to which object is made. All written protests shall be filed with the City Clerk prior to the time fixed for the public hearing. Written protests may be withdrawn at any time before the conclusion of the public hearing.

Pursuant to Government Code Section 5339.6, if 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the existing community facilities district, or if 50 percent or more of the registered voters or six registered voters, whichever is more, residing within the boundary of the proposed CFD 2008-1 Annexation No. 9, or if the owners of one-half or more of the area of land in the territory included in the district and not exempt from the special tax, file written protests against the proposed CFD 2008-1 Annexation No. 9, and protests are not withdrawn so as to reduce the protests to less than a majority, the proposed CFD 2008-1 Annexation No. 9 and the tax levy shall not be considered for a period of one year from the date of the decision of the City Council after the hearing.

The hearing may be continued from time to time, but shall be completed within 30 days. At the conclusion of the public hearing, the City Council may (1) abandon the proceedings, (2) after passing upon all protests, submit the question of levying a special tax with the proposed CFD 2008-1 Annexation No. 9 to the qualified electors of the area proposed to be annexed.

Upon conclusion of the public hearing, if the City Council determines to proceed with the annexation to CFD 2008, a proposition to authorize the levy of the special tax within the territory proposed to be annexed shall be submitted to the qualified electors within the proposed CFD 2008-1 Annexation No. 9. The vote shall be by registered voters within the proposed CFD 2008-1 Annexation No. 9; however, if there are less than 12 registered voters, the vote shall be by landowners, with each landowner having one vote per acre or portion thereof within CFD 2008-1 Annexation No. 9.

If two-thirds of the votes cast on the proposed CFD 2008-1 Annexation No. 9 are in favor of levying the special tax, City Council shall determination the proposed CFD 2008-1 Annexation No. 9 is added to and part of the existing community facilities district with full legal effect and the City council may levy any special tax within the boundary of proposed CFD 2008-1 Annexation No. 9.

Upon City Council's determination that the proposed CFD 2008-1 Annexation No. 9 is added to the existing community facilities district, the City Clerk shall record notice of the annexation pursuant to Section 3117.5 of the California Streets and Highways Code.

DATED: _____, 2016

Mary Lavelle, City Clerk
City of Milpitas

**ANNEXATION NO. 9 TO
CITY OF MILPITAS
COMMUNITY FACILITIES DISTRICT NO. 2008-1
(PUBLIC SERVICES)**

**CONSENT AND WAIVER TO SHORTENING OF TIME FOR NOTICING AND
CONDUCTING A SPECIAL ELECTION IN TERRITORY PROPOSED TO BE
ANNEXED IN COMMUNITY FACILITIES DISTRICT NO. 2008-1 AND
APPOINTMENT OF AUTHORIZED REPRESENTATIVES**

TO: CITY COUNCIL
CITY OF MILPITAS

The undersigned PROPERTY OWNER, or representative thereof, does hereby CERTIFY under penalty of perjury, that the following statements are all true and correct:

PROPERTY OWNER CONSENT AND WAIVER

1. The undersigned is the duly authorized representative of Lago Vista Milpitas, LLC, the owner (the "Owner") of that certain real property identified in Exhibit "A" attached hereto and incorporated herein by this reference ("Owner's Property"), and is legally authorized to give the consent and waiver contained herein on behalf of such owner.
2. Owner is aware of and understands the following:
 - A. The City has conducted proceedings pursuant to the "Mello-Roos Community Facilities Act of 1982," as amended, (the "Act") and created that certain community facilities district known and designated as COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES) (the "District")
 - B. The District was established to finance certain public services as such terms in the manner described in the rate and method of apportionment (the "Rate and Method") of special taxes (the "Special Taxes") attached as Exhibit B hereto and incorporated herein by this reference.
 - C. The City has initiated proceedings to annex Owner's Property to the District and Owner's Property may be referred to herein as Annexation No. 9.
 - D. If approved as described below, the Owner's Property will become subject to the levy of the Special Tax applicable to Taxable Parcels (as defined in the Rate and Method) located in the District pursuant to the Rate and Method.
 - E. Owner has had a reasonable opportunity to review and has reviewed the Rate and Method.
 - F. The Act requires, as a prerequisite to the annexation of the Owner's Property and the levy of the Special Taxes thereon, that the District must submit the question of

whether or not to levy such Special Tax to the qualified electors of Owner's Property at a special election. The Act further provides that 2/3's of the votes cast on the question of whether or not to levy the Special Tax must be in favor of the levy of such Special Tax if the levy of such Special Tax is to be authorized.

The Act provides that the qualified electors shall be the voters registered to vote within the Owner's Property if at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within the Owner's Property for each of the ninety (90) days preceding the close of the public hearing to be held on September 6, 2016. Otherwise, the Act provides that the vote shall be by the owner of the Owner's Property, at the close of the public hearing, that will be subject to the levy of the Special Tax, or the authorized representative of such owner, having one vote for each acre or portion of an acre of land that will be subject to the levy of the Special Taxes that such owner owns within the Owner's Property.

- G. The provisions of the Act require that such special election be held at least ninety (90) but not more than one hundred eighty days (180) following the date of the adoption of the resolution submitting the proposal to consider the authorization to levy the Special Taxes pursuant to the Rate and Method on the territory proposed to be annexed to the District to the qualified electors thereof (the "Resolution of Submission"). The Act provides, however, that any such special election time limit specified by the Act or requirement pertaining to the conduct of such a special election may be waived with the unanimous consent of the qualified electors and the concurrence of the official conducting the election. As is stated below, it is proposed that such special election (the "Special Election") shall be held on September 6, 2016.
3. Owner has had a reasonable opportunity to consult with and to be advised by Owner's legal counsel regarding the matters contained in this document and the exhibits hereto.
 4. Owner certifies that Owner is the sole owner of all of the Owner's Property.
 5. Owner certifies that there have been no persons residing within the Owner's Property for each of the ninety (90) days preceding the date of this Consent and Waiver.
 6. Owner desires and requests that the Special Election be held on September 6, 2016 or such other date as the Owner and the City Clerk of the City (the "City Clerk"), acting as the official conducting the election, may mutually agree, a date which may be less than ninety (90) days from the date of the adoption of the Resolution of Submission.
 7. Owner expressly consents to the conduct of the Special Election on September 6, 2016, or such other date upon which all of the qualified electors and the City Clerk conducting the election may concur.
 8. Owner expressly waives:

- A. any right which Owner may have to conduct the Special Election within the time periods specified in Government Code Section 53326;
- B. any protest, complaint or legal action of any nature whatsoever pertaining to the shortening of all time periods pertaining to (a) the public hearing and notice thereof and (b) the Special Election, including but not limited to, the time for holding the Special Election and the necessity and requirement for any newspaper publication of the notice of the Special Election;
- C. any requirement for the mailing of the ballot;
- D. any requirement for the preparation of ballot arguments, rebuttal arguments and/or an impartial analysis as to the ballot proposition set forth in Exhibit "C."
- E. any requirement for filing the original of the Annexation No. 9 map within 15 days after City Council's adoption of the resolution fixing the time and place of the hearing on the extent of the District and no later than 15 days prior to the public hearing pursuant to Section 3111 of the California Streets and Highways Code.

PROPERTY OWNER APPOINTMENT OF AUTHORIZED REPRESENTATIVES

The Owner hereby appoints Stephen E. Schott or Stephen C. Schott, alternatively, as its authorized representative to vote in the Special Election, and the Owner certifies that the true and exact signature of each alternative representative is set forth below:

Stephen E. Schott
Signature
Stephen C. Schott
Signature

Stephen E. Schott
(Type or Print Name of Representative)
Stephen C. Schott
(Type or Print Name of Representative)

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

THIS CONSENT AND WAIVER AND APPOINTMENT OF AUTHORIZED REPRESENTATIVES was executed this 30th day of August, 2016, in Santa Clara, California.

Stephen C. Schott
(Signature)

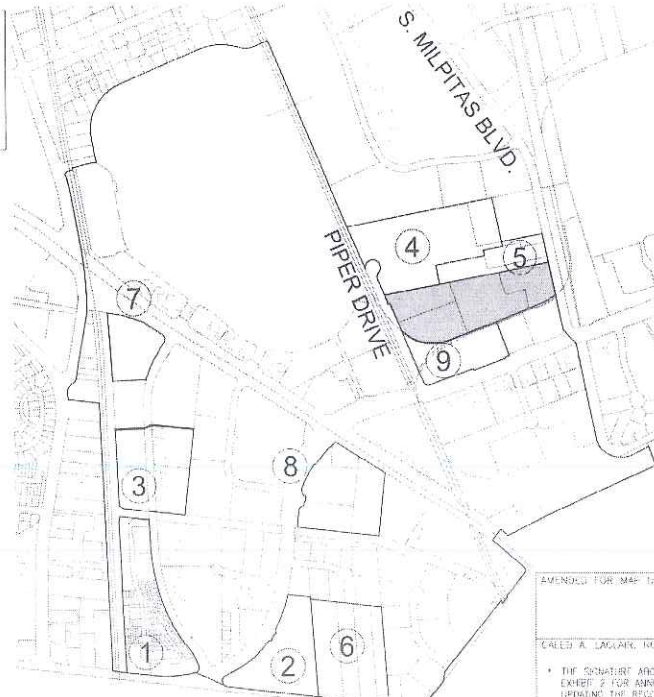

Stephen C. Schott
Type or Print Name of Signor

**ANNEXATION NO. 9 TO
CITY OF MILPITAS
COMMUNITY FACILITIES DISTRICT NO. 2008-1
(PUBLIC SERVICES)**

CONSENT AND WAIVER

**EXHIBIT "A"
DESCRIPTION OF PROPERTY SUBJECT
TO CONSENT AND WAIVER**

The Owner's Property includes all of property shown with the boundaries of the territory to be annexed as shown on the attached Annexation Map No. 9.

SHEET 1 OF 1	EXHIBIT 2
<p>Filed in the office of the City Clerk of the City of Milpitas this ____ day of _____, 2016.</p> <p>City Clerk, City of Milpitas _____</p> <p>I hereby certify Annexation Map No. 9 as shown within the boundaries of City of Milpitas Community Facilities District No. 2008-1 (Public Services) as originally recorded maps of assessment and community Book 44 Page 30 Facilities District, O.R., County of Santa Clara, State of California, was in accordance with the City Resolution No. 8574 as adopted by the City Council of the City of Milpitas at a regular meeting hereof, held on the 2nd day of August, 2016.</p> <p>City Clerk, City of Milpitas _____</p> <p>Filed this ____ day of _____, 2016, at the hour of ____ o'clock ____ m., in Book ____ of Maps of Assessment and Community Facilities Districts at Page ____ in the office of the County Recorder in the County of Santa Clara, State of California.</p> <p>County Recorder, Regina Alcomendras County of Santa Clara</p> <p>The boundary of Community Facilities District No. 2008-1 is co-terminous with the boundary of the City of Milpitas in _____, 2016.</p> <p>Reference is hereby made to the Assessor maps of the County of Santa Clara for an exact description of the lines and dimensions of each lot and parcel.</p> <p>The territory included in the Community Facilities District shall include only Santa Clara County Assessor's for the following Annexation Maps:</p> <p>Initial formation CFD 2008-1, 08632033, 08632034, 08632035, 08632036 Map No. 1: 08641020, 08641021, 08641022 Map No. 2: 08637043 Map No. 3: 08633094, 08633095, 08633098, 08633099 Map No. 4: 08632044 Map No. 5: 08632039, 08632045, 08632046 Map No. 6: 08636003, 08636004, 08636005, 08636006 Map No. 7: 08633092 Map No. 8: 08637019, 08637037, 08637038 Map No. 9: 08632029, 08632070</p> <p>and all publicly owned areas in the City of Milpitas landscaped or capable of being landscaped, such as parks, parkways, street medians, interchange areas, light rail areas, open space and all similar areas. All other areas depicted on this map indicate territory that may be annexed to the Community Facilities District in the future.</p>	<p style="text-align: center;">ANNEXATION MAP NO. 9 AND UPDATE OF ANNEXATION MAP NO. 8 OF CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES), COUNTY OF SANTA CLARA STATE OF CALIFORNIA AS RECORDED IN BOOK 44 PAGE 30 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, O.R., SANTA CLARA COUNTY</p> <div style="display: flex; align-items: flex-start;"><div style="flex: 1;"><p>Legend</p><ul style="list-style-type: none"> Location of Initial Formation (Assessor Parcel No. 08632033, 08632034, 08632035, 08632036) Boundary of CFD 2008-11 Annexation No.</div><div style="flex: 2;"></div><div style="flex: 0.5; text-align: center; align-self: center;"><p>Scale: 1"=500'</p></div></div> <div style="margin-top: 10px;"><p>AVENUE FOR MAP NO. 9 ANNEXATION</p><p>CALLED A. LAUREN, FILE #75163 Date _____</p><p>THE SCALED MAP IS ONLY FOR THE UPDATING TO EXHIBIT 2 FOR ANNEXATION MAP NO. 9 AND IS UPDATING THE RECORDED ANNEXATION MAP NO. 8 OF CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2008-1</p><p>Drawn By: C.Z. File No: CFD 2008-1 Sheet 1 of 1</p></div>

**ANNEXATION NO. 9 TO
COMMUNITY FACILITIES DISTRICT NO. 2008-1
(PUBLIC SERVICES)
CONSENT AND WAIVER**

EXHIBIT "B"

RATE AND METHOD OF APPORTIONMENT

Recording Requested By and
When Recorded Mail to:

CITY OF MILPITAS
Attention: City Clerk
455 East Calaveras Blvd
Milpitas, California 95035

DOCUMENT: 20102888

Pages: 13



Fees	* No Fees
Taxes	
Copies	
AMT. PAID	

REGINA ALCOMENDRAS
SANTA CLARA COUNTY RECORDER
Recorded at the request of
City

RDE # 003
1/15/2009
10:10 AM

NOTICE OF SPECIAL TAX LIEN

**CITY OF MILPITAS
COMMUNITY FACILITIES DISTRICT NO. 2008-1
(PUBLIC SERVICES)
FORMATION**

Pursuant to the requirements of Section 3114.5 of the Streets and Highways Code and Section 53328.3 of the Government Code, the undersigned City Clerk of the City of Milpitas, State of California, hereby gives notice that a lien to secure payment of a special tax is hereby imposed by the City Council of the City of Milpitas, State of California. The special tax secured by this lien is authorized to be levied for the purpose of financing the services described on Exhibit A attached hereto and incorporated herein and to pay any other related incidental costs or expenses authorized by law.

The special tax is authorized to be levied within the City of Milpitas, Community Facilities District 2008-1 (Public Services), which has now been officially formed. The lien of the special tax is a continuing lien that shall secure each annual levy of the special tax and that shall continue in force and effect until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the Government Code.

The rate, method of apportionment, and manner of collection of the authorized special tax is as set forth in Exhibit B attached hereto and incorporated herein. No provision has been made under which the obligation to pay the special tax may be prepaid and permanently satisfied and the lien of the special tax canceled.

Notice is further given that, upon the recording of this notice in the office of the county recorder, the obligation to pay the special tax levy shall become a lien upon all nonexempt real property within the Community Facilities District No. 2008-1 in accordance with Section 3115.5 of the Streets and Highways Code.

The names of the owners and the assessor's tax parcel numbers of the real property included within the Community Facilities District No. 2008-1 and not exempt from the special tax are shown on Exhibit C.

Reference is made to the boundary map of the Community Facilities District No. 2008-1 recorded on October 30, 2008, in Book 44 of maps of Assessment and Community Facilities

Districts at page 30 in the office of the County Recorder for the County of Santa Clara, State of California, which map is now the final boundary map of the Community Facilities District No. 2008-1.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact the Office of the Finance Director, City of Milpitas, at (408) 586-3000.

Dated: January 14, 2009

City of Milpitas

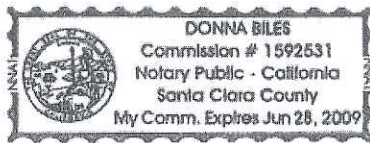
By: Mary A. Lovelle
City Clerk

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Santa Clara

On 1-14-09 before me, Donna Biles, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Mary A. Lavelle
Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Notice of Special Tax Lien

Document Date: 1-14-09 Number of Pages: 14

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Mary A. Lavelle

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer Is Representing: Self

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer Is Representing: _____

EXHIBIT A

DESCRIPTION OF SERVICES

The community facilities district is established to finance any one or more of the following types of services within the District:

- (a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.
- (b) Fire protection and suppression services, and ambulance and paramedic services.
- (c) Maintenance and lighting of parks, parkways, streets, roads, street landscaping, and open space.
- (d) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems.
- (e) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment.

EXHIBIT B

**City of Milpitas
Community Facilities District No.2008-1
(Public Services)
Santa Clara County, California**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

EXHIBIT B

City of Milpitas
Community Facilities District No. 2008-1
(Public Services)
Santa Clara County, California

RATE, METHOD OF APPORTIONMENT, AND MANNER OF COLLECTION OF SPECIAL TAX

1. BASIS OF SPECIAL TAX LEVY

A Special Tax authorized under the Mello-Roos Community Facilities Act of 1982 (Act) applicable to the land in the Community Facilities District No. 2008-1 (Public Services) (CFD) of the City of Milpitas (City) shall be levied and collected according to the tax liability determined by the City through the application of the appropriate amount or rate, as described below.

2. DEFINITIONS

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, Sections 53311 and following of the California Government Code.

"Administrative Expenses" means the actual or estimated costs incurred by the City to form the CFD and to determine, levy, and collect the Special Taxes, including compensation of City employees for administrative work performed in relation to the CFD, the fees of consultants and legal counsel, the costs of collecting installments of the Special Taxes on the general tax rolls, preparation of required reports, and any other costs required to administer the CFD as determined by the City.

"Administrator" means the Finance Director of the City, or his or her designee.

"Affordable Housing" means a Dwelling Unit on a Developed Parcel that is subject to deed restrictions, resale restrictions, or regulatory agreements recorded on the property that provide housing for persons that meet Low-, Very Low-, or Extremely Low-Income levels pursuant to the California Health and Safety Code Sections 5079.5, 50105, or 50106. The Dwelling Unit shall no longer be considered Affordable Housing following termination of the agreement containing covenants or similar instruments.

"Annexation Parcel" means any Parcel that is annexed to the CFD after it is formed.

"Annual Costs" means for each Fiscal Year, the total of (1) Authorized Services, (2) Administrative Expenses, and (3) any amounts needed to cure actual or estimated delinquencies in Special Taxes for the current or previous Fiscal Year.

"Authorized Services" mean those services, as listed in the resolution forming the CFD.

"Base Year" means the Fiscal Year beginning July 1, 2009 and ending June 30, 2010.

"Certificate of Occupancy" means a permit issued by the City authorizing the occupancy of a Dwelling Unit.

"CFD" means the Community Facilities District No. 2008-1 (Public Services) of the City of Milpitas, Santa Clara County, California.

"City" means the City of Milpitas in Santa Clara County, California.

"Council" means the City Council of the City of Milpitas acting for the CFD under the Act.

"County" means the County of Santa Clara, California.

"County Assessor's Parcel" means a lot or Parcel with an assigned Assessor's Parcel Number in the maps used by the County Assessor in the preparation of the tax roll.

"County Median Income" means the current median income for the County as determined by the U.S. Department of Housing and Urban Development, or successor agency as published annually by the State Department of Housing and Community Development pursuant to the Health and Safety Code Section 50093 et. seq.

"Developed Parcel" means a Parcel that has Certificate of Occupancy for residential land uses issued after January 1, 2009.

"Dwelling Unit(s)" means the number of taxable developed residential unit(s) assigned to a Parcel, or a portion thereof, by the Administrator.

"Extremely Low-Income Affordable" means a Dwelling Unit located on a Developed Parcel that is Affordable Housing for households with incomes at or below 30 percent of the County Median Income.

"Fiscal Year" means the period starting July 1 and ending the following June 30.

"Low-Income Affordable" means a Dwelling Unit located on a Developed Parcel for Affordable Housing for households with incomes at or below 80 percent of the County Median Income.

"Market Rate" means a Dwelling Unit located on a Developed Parcel that is not Affordable Housing.

"Maximum Annual Special Tax" means the greatest amount of Special Tax that can be levied against a Developed Parcel calculated by summing the Maximum Annual Special Tax Rate for each Dwelling Unit and Tax Category assigned to a Developed Parcel.

"Maximum Annual Special Tax Rate per Unit" means the amount shown in **Attachment 1** for a Fiscal Year that is assigned to a Dwelling Unit by Tax Category.

"Parcel" means any County Assessor's Parcel in the CFD based on the equalized tax rolls of the County as of January 1 of each Fiscal Year.

"Parcel Number" means the Assessor's Parcel Number for any Parcel based on the equalized tax rolls of the County as of January 1 of each Fiscal Year.

"Public Parcel" means any Parcel, in its entirety, that is or is intended to be publicly owned that is normally exempt from the levy of general ad valorem property taxes under California law, including public streets, schools, parks, public drainageways, public landscaping, wetlands, greenbelts, and public open space. These parcels are exempt from the levy of Special Taxes. Any such Parcel will be a Tax-Exempt Parcel.

"Second-Family Unit" means an attached or detached additional residential dwelling unit on a single-family residential Developed Parcel. The Second-Family Unit is not considered a Dwelling Unit in terms of assigning the Maximum Annual Special Tax.

"Special Tax(es)" mean(s) any tax levy under the Act in the CFD.

"Tax Category" means the four categories of housing Dwelling Units shown in **Attachment 1**.

"Tax Collection Schedule" means the document prepared by the Administrator for the County Auditor-Controller to use in levying and collecting the Special Taxes each Fiscal Year.

"Tax Escalation Factor" means an annual percentage increase in the Maximum Annual Special Tax Rate per Unit based on the Consumer Price Index (CPI) (as of February, San Francisco, All Urban Consumers [CPI-U] Index), the CPI (prior calendar year annual average, San Francisco, All Urban Wage Earners and Clerical Workers), or 2 percent, whichever is greater. The Tax Escalation Factor is applied in each Fiscal Year following the Base Year.

"Taxable Parcel" means any Parcel that is not a Tax-Exempt Parcel.

"Tax-Exempt Parcel" means a Parcel not subject to the Special Tax. Tax-Exempt Parcels are Public Parcels (subject to the limitations set forth in **Section 4**, below), Undeveloped Parcels, and nonresidential use parcels, such as commercial, office, retail, industrial, etc.

"Undeveloped Parcel" means a Parcel that is not a Developed Parcel.

"Very Low-Income Affordable" means a Dwelling Unit located on a Developed Parcel that is Affordable Housing for households with incomes at or below 50 percent of the County Median Income.

3. DURATION OF THE SPECIAL TAX

Parcels in the CFD will remain subject to the Special Tax in perpetuity.

If the Special Tax ceases to be levied, the City will direct the County Recorder to record a Notice of Cessation of Special Tax. Such notice will state that the obligation to pay the Special Tax has ceased and that the lien imposed by the Notice of Special Tax Lien is extinguished. The Notice of Cessation of Special Tax, in addition, will identify the book and page of the Book of Maps of Assessment and Community Facilities Districts where the map of the boundaries of the CFD is recorded.

4. ASSIGNMENT OF MAXIMUM ANNUAL SPECIAL TAX

- A. Classification of Parcels. By June 30 of each Fiscal Year, using the Definitions in **Section 2**, above, the parcel records of the Assessor's Secured Tax Roll as of January 1, and other City development approval records, the Administrator shall cause these:

1. Each Parcel to be classified as a Developed Parcel or Tax-Exempt Parcel.
2. Each Developed Parcel to be assigned a number of Dwelling Units.
3. Each Dwelling Unit to be further classified as Market Rate, Low-Income Affordable, Very Low-Income Affordable, or Extremely Low-Income Affordable.

- B. Assignment of Maximum Annual Special Tax. **Attachment 1** shows the Base Year Maximum Annual Special Tax Rates per Unit. Each Fiscal Year following the Base Year, the Maximum Annual Special Tax Rate per Unit may be increased in accordance with the Tax Escalation Factor.

The Maximum Annual Special Tax is then assigned to Taxable Parcels using the steps below:

1. **Developed Parcels.** Dwelling Units are assigned by the Administrator by Tax Category (as shown in **Attachment 1**) to Developed Parcels. The Maximum Annual Special Tax for each Developed Parcel is the sum of the Maximum Annual Special Tax Rates per Unit (as increased by the Tax Escalation Factor each Fiscal Year after the Base Year) for each Dwelling Unit (and Tax Category assigned thereto).
 2. **Undeveloped Parcels.** Undeveloped Parcels are Tax-Exempt Parcels until developed as one of the residential uses discussed above.
- C. Conversion of a Tax-Exempt Parcel to a Taxable Parcel. If a Tax-Exempt Parcel is not needed for public use and is converted to a taxable use or transferred to a private owner, it shall become subject to the Special Tax. The Maximum Annual Special Tax for such a Parcel will be assigned according to the **Section 4.A** and **Section 4.B** above. Conversely, if a privately owned parcel is converted to a public use, it shall become tax-exempt.

5. CALCULATING ANNUAL SPECIAL TAXES

The Administrator will compute the Annual Costs and determine the Maximum Annual Special Tax for each Taxable Parcel based on the assignment of the Special Tax in **Section 4**. The Administrator will then determine the tax levy for each Taxable Parcel using the following process:

- A. Compute the Annual Costs using the definition of Annual Costs in **Section 2**.
- B. Calculate the Special Tax levy for each Developed Parcel by the following steps:
 - Step 1: Compute 100 percent of the Maximum Annual Special Tax Revenue for all Developed Parcels.
 - Step 2: Compare the Annual Costs with the Maximum Annual Special Tax revenue calculated in the previous step.
 - Step 3: If the Annual Costs are lower than the Maximum Annual Special Tax Revenue, decrease proportionately the Special Tax levy for each Developed Parcel until the revenue from the Special Tax levy equals the Annual Costs.
- C. Levy on each Taxable Parcel the amount calculated above.
- D. Prepare the Tax Collection Schedule and, unless an alternative method of collection has been selected pursuant to **Section 9**, send it to the County Auditor requesting that it be placed on the general, secured property tax roll for the Fiscal Year. The Tax Collection Schedule will not be sent later than the date required by the Auditor for such inclusion.

The Administrator will make every effort to correctly calculate the Special Tax for each Parcel. It will be the burden of the taxpayer to correct any errors in the determination of the Parcels subject to the tax and their Special Tax assignments.

6. RECORDS MAINTAINED FOR THE CFD

As development and subdivision occurs in the CFD, the Administrator will maintain a file containing records of the following information for each Parcel:

- The current County Assessor's Number.
- Number of Dwelling Units assigned by the Administrator to Developed Parcels.
- The Tax Category for each Dwelling Unit assigned to a Developed Parcel.

The file containing the information listed above will be available for public inspection.

7. INTERPRETATION, APPLICATION AND APPEAL OF SPECIAL TAX FORMULA AND PROCEDURES

Any taxpayer who feels that the amount of the Special Tax assigned to a Parcel is in error may file a notice with the Administrator appealing the levy of the Special Tax. The Administrator will then promptly review the appeal, and if necessary, meet with the applicant. If the Administrator verifies that the tax should be modified or changed, the Special Tax levy will be corrected and, if applicable in any case, a refund will be granted.

Interpretations may be made by Resolution of the Council for purposes of clarifying any vagueness or ambiguity as it relates to the Special Tax rate, the method of apportionment, the classification of properties, or any definition applicable to the CFD.

Without Council approval, the Administrator may make minor, non-substantive administrative and technical changes to the provisions of this Exhibit that do not materially affect the rate, method of apportionment, and manner of collection of the Special tax for purposes of the administrative efficiency or convenience or to comply with new applicable federal, state or local law.

8. PREPAYMENT OF THE SPECIAL TAX OBLIGATION

The Maximum Annual Special Tax for a Taxable Parcel may not be prepaid. The Special Tax is collected to fund Authorized Services in perpetuity, or until the Council determines that the Special Tax should no longer be collected.

9. MANNER OF COLLECTION

The Special Tax will be collected in the same manner and at the same time as ad valorem property taxes, provided, however, that the Administrator or its designee may directly bill the Special Tax and may collect the Special Tax at a different time, such as on a monthly or other periodic basis, or in a different manner, if necessary, to meet the City's financial obligations.

**Attachment 1
City of Milpitas
CFD No. 2008-1 (Public Services)
Maximum Annual Special Tax Rates Per Unit Base Year 2009-2010**

Dwelling Unit Tax Category	Maximum Annual Special Tax Rate Per Unit
	[1]
Market Rate	\$510
Low-Income Residential [2]	\$408
Very Low-income Residential [3]	\$255
Extremely Low-Income Residential	\$0

"att_1"

[1] May be increased by the Tax Escalation Factor in each Fiscal Year after the Base Year 2009-2010.

[2] Initially set at 80% of the Market-Rate Maximum Annual Special Tax Rate per Unit. When such Parcel is no longer subject to Affordable Housing status, it will be assigned to the Market Rate Tax Category.

[3] Initially set at 50% of the Market-Rate Maximum Annual Special Tax Rate per Unit. When such Parcel is no longer subject to Affordable Housing status, it will be assigned to the Market Rate Tax Category.

[4] Initially set at 0% of the Market-Rate Maximum Annual Special Tax Rate per Unit. When such Parcel is no longer subject to Affordable Housing status, it will be assigned to the Market Rate Tax Category.

EXHIBIT C

**Assessor's Parcel Numbers and Owners
Of Land Included in
City of Milpitas
Community Facilities District No. 2008-1 (Public Services)**

APN	LANDOWNER
086-32-033, 034, 035, 036	Milpitas Station LLC

**ANNEXATION NO. 9 TO
CITY OF MILPITAS
COMMUNITY FACILITIES DISTRICT NO. 2008-1
(PUBLIC SERVICES)
CONSENT AND WAIVER**

**EXHIBIT "C"
BALLOT MEASURE**

PROPOSITION A

Shall City of Milpitas Community Facilities District No. 2008-1 (Public Services) be authorized to levy special taxes within the territory identified as Annexation No. 9 to such District pursuant to the rate and method of apportionment of special taxes (the "Rate and Method") attached to this ballot to finance the authorized services and administrative expenses, all as provided for in the Rate and Method?

The Rate and Method to be attached to the ballot shall be the Rate and Method attached to this Consent and Waiver as Exhibit "B" hereto.

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